

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 335

CASE NO. 80-13/78-21M

MARCH 12, 1981

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on January 19, 1981. At this hearing session the Zoning Commission considered an application by the International Association of Machinists which requested modifications to a previously approved Planned Unit Development at 1330 Connecticut Avenue, N.W.

FINDINGS OF FACT

1. The Dupont Circle Citizens Association, admitted as a party in opposition by the Commission, moved to disqualify Louis P. Robbins and the law firm of Wilkes and Artis from representing the applicant in this case. The Association alleged that counsel was violating the provisions of Title 18 of the U.S. Code and Section 9-101(b) of the Disciplinary Rules of the Bar, and that a conflict of interest existed.
2. In order for such a conflict of interest to exist, the attorney for the applicant must have been involved in the same matter as the subject application while employed by the District Government.
3. The Association presented no evidence or testimony that Mr. Robbins, as a member of the Office of the Corporation Counsel, had ever participated in any proceedings before the Commission regarding the subject application or the original PUD application on the property. At the public hearing on January 19, 1981, Mr. Robbins testified that he did not participate in the prior proceeding while employed by the District of Columbia.
4. The Chairman ruled that the uncontroverted testimony of Mr. Robbins indicated that he had not participated as a member of the Office of the Corporation Counsel in the subject case, and that therefore there could be no conflict of interest or violation of Title 18 or the Disciplinary Rules. The Chairman denied the motion to disqualify.
5. The Dupont Circle Citizens Association moved that the Commis-

sion dismiss the application on the grounds that the previously approved PUD had expired when the applicant failed to secure the approval of the Mayor's Agent.

6. This application is being considered under the PUD regulations in effect at the time the original application was heard. Paragraphs 7501.67 and 7501.68 set forth the procedures that govern the implementation of approved PUD's in those cases. Paragraph 7501.68 requires that "The applicant shall file for a building permit to execute the project... within twelve months from the date the zoning order is entered."
7. In the subject case, the applicant filed for a building permit within the one year period. The Chairman ruled that the prior PUD was still valid, and that the motion to dismiss was denied.
8. This is an application requesting modifications to an approved Planned Unit Development under Sub-section 7501.6 of the Zoning Regulations which were in effect between October 23, 1977 and February 15, 1979. The property consists of Lots 800, 801, and 8 through 12 in Square 138, bounded by Connecticut Avenue, "N" Street, 19th Street and Dupont Circle, N.W., and is located in the Dupont Circle Historic District.
9. Final approval by the Zoning Commission was originally granted by Z.C. Order No. 297 dated October 11, 1979. Order No. 297 approved the construction of a 10-story office and retail structure adjacent to the existing International Association of Machinists building at the corner of Connecticut Avenue and "N" Street, N.W. The approved plans provided for a 118 foot height and a floor area ratio of 7.0.
10. Following approval of the PUD application, the applicant timely filed an application for a building permit to construct the development in accordance with Order No. 297. Pursuant to D.C. Law 2-144, the Historic Landmarks and Historic District Protection Act of 1978, and the Rules of Procedures pursuant to D.C. Law 2-144, the building permit application was referred to the Mayor's Agent for D.C. Law 2-144 and the Joint Committee on Landmarks for a determination as to whether the proposed new construction would be incompatible with the character of the Dupont Circle Historic District.
11. The Joint Committee reported to the Mayor's Agent that the design was incompatible with the historic district and recommended that the permit not be issued. Hearings were held by the Mayor's Agent on May 21 and 22, 1980. On June 9, 1980, the Mayor's Agent issued an order that the permit not be issued as the design of the building and the character of the historic district are incompatible.

12. The applicant made several design changes to the project to bring the project in accord with the recommendations of the Joint Committee on Landmarks and the Mayor's Agent for Historic Preservation. In general, the design modifications fell into two principal areas, those related to the siting and site plan of the building and those dealing with the design, fenestration and materials of the building itself.
13. The revised plans for the project were presented before the Joint Committee on August 21, September 5, October 23 and November 20, 1980. On December 18, 1980, the Joint Committee voted to adopt the staff report which recommended favorable action on the project.
14. In setting the application for public hearing, the Zoning Commission determined that the hearing would be limited to the issue of design within a maximum height of 118 foot and a maximum Floor Area Ratio of 7.0. The basic parameters of the planned unit development have remained unchanged in the modified design. The principal modifications to the previously approved project include a reconfiguration of the building within its approved envelope to incorporate setbacks at various floor levels, the "filling-out" of the envelope toward N Street, and changes to the facade materials and articulation.
15. In response to the Joint Committee and Mayor's Agent's criticism of the proposed building's relationship to the typical streetscape of the historic district, the modified plan extends the southern portion of the building to the property lines at the second through fifth floors. The upper floors, along 19th and N Streets, are recessed in varying amounts. Building to the property lines maintains a strong edge of the building along the street, while recessing the upper floors tends to lessen the impact of the overall 118 foot height on nearby lower buildings. Such a solution also establishes a better architectural relationship with the western facade of the Dupont Circle building which has a number of distinct horizontal divisions.
16. The effect of this modification on the mini-park has been to reduce its area and cover a portion of it with the upper floors of the building. The former proposal included 8,335 square feet of mini-park, of which 4,675 square feet were on private property and 3,660 square feet were on public property. The revised proposal contemplates a park of some 5,375 square feet, approximately 2,363 square feet of which is comprised of private property. These figures include only those areas at ground level and do not include a twelve foot wide sidewalk space which will be similarly landscaped and paved. The landscaping and paving of both the public and private spaces are essentially

the same in this proposal as previously approved by the Zoning Commission.

17. The Connecticut Avenue and 19th Street treatment of arcades and open spaces is also essentially the same as that approved in Order no. 297.
18. The proposed building now fills most of the building site. This modification is, according to the applicant, more sympathetic to the streetscape created by the imposition of diagonal roadways over a grid street plan. The filling out of the envelope emphasizes the urban design setting such a system encourages and is more similar to the character and streetscape patterns of the historic district.
19. The height of the proposed building along both 19th Street and N Street has also been changed. Formerly a uniform 118 feet, the building now steps upward from a height of sixty-five feet closest to the lot lines to a maximum height of 118 feet. The Connecticut Avenue side of the building also rises to 118 feet as formerly proposed. However, the ninth and tenth floors are stepped back from the building line.
20. In response to concern over the starkness of the facade materials and the contrast between the proposed materials and those of the buildings in the historic district, the applicant now proposes to use red brick as the principal facade material. The facade approved by the Zoning Commission in Order no. 297 was composed of vertical precast white marble panels. The new facades along 19th and N Streets consist of horizontal bands of red brick with exposed columns. The modified facade also reflects the townhouse rhythm of the historic district with its modular recesses and indentations. The fenestration material will be of bronze tinted glass.
21. The Connecticut Avenue facade of the proposed building is in marked contrast to the Nineteenth and N Street facades. While the same brick and glass materials will be used, the proportions of this facade generally reinforce those of the adjacent Machinists and Dupont Circle buildings. The area devoted to fenestration is much less than that of the other facades and the addition of vertical precast elements of limestone reflects the "infill" function of this portion of the building.
22. Vlastimil Koubek, architect for the applicant, by testimony presented at the public hearing, described the modifications to the building which had occurred subsequent to the prior approval of the project by the Zoning Commission. These included: 1) change in the predominant material of the facade of the building from marble to red brick; 2) the terracing of several floors of the 19th and N Street sides of the building with a concurrent expansion of the footprint of the building

to the property lines; 3) the inclusion of the mini-park under partial cover of the building and the reduction in the area of the park by approximately 1700 square feet; 4) design details of the 19th and N Street facades including a change to horizontal bands of brick and brown tinted glazing; 5) design details of the Connecticut Avenue facade including brick and limestone or granite facade materials, setbacks at the upper floors of the building, and the reconfiguration of the retail level facade details. Mr. Koubek also testified that the light-well on the 19th Street side of the project may be used to provide access to the lower retail level of the building.

23. Joseph E. Brown, landscape architect and planner for the applicant, testified that the proposed building is compatible with the diversity of buildings in the Dupont Circle area and meets the objectives of the city's plans for the treatment of 19th Street. Mr. Brown also stated that the mini-park added to the public amenities of the area and that a ninety foot building on this site would be less successful as a bridge between the existing Dupont Circle and IAM buildings. The Commission so finds.
24. William Lebovich, architectural historian for the applicant, testified that the design of the building as now proposed would off-set the effect of the density and size of the proposed building and that the project strengthens the Connecticut Avenue commercial corridor. Mr. Lebovich testified on the positive relationship of the project to the character of the Dupont Circle Historic District and stated that a lower building on this square would be inappropriate. The Commission so finds.
25. The Office of Planning and Development, by memorandum dated January 9, 1981, and by testimony presented at the public hearing, reported that the modifications made to the project, including the setbacks, change in materials, building to the 19th and N Street property lines, and the reconfiguration of the facades, resulted in a project which was more sensitive to the Dupont Circle Historic District. The OPD testified that the project would be a significant addition to the Connecticut Avenue commercial area. The Commission concurs with the findings of the OPD. The OPD recommended approval of the applications subject to several guidelines standards and conditions.
26. Advisory Neighborhood Commission - 2B, by statement dated January 19, 1981 and by testimony presented at the public hearing, opposed the application for the following reasons:

1. The size of the mini-park had been reduced and its design altered to the point that it was no longer an amenity.
2. The number of parking spaces was too large and would generate too much traffic.

The ANC recommended that the Commission provide for a wide arcade on the Connecticut Avenue side of the building to provide more sidewalk space.

27. The Dupont Circle Citizens Association, objected to the design of the building, stating that the proposed building is too high and that it should be lowered to ninety feet. The Association further stated that the architectural treatment of the Connecticut Avenue facade should be used on the 19th and "N" Street facades of the building. In general the Association stated that the proposed building was not in character with the Dupont Circle Historic District.
28. As to the issues raised by the ANC and the parties and persons in opposition, the Commission finds as follows:
 - A. Findings no. 11 through 24 of this order address all the issues raised by the ANC as well as by the Citizens Association with the exception of the issue regarding the number of parking spaces.
 - B. The number of parking spaces being provided by the applicant, is a direct reflection of the amount set forth in Order no. 297. The question of parking supply was resolved by the Commission in the prior application and is not at issue again in the modification.
29. The application was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC reported that the preservation and protection of the Dupont Circle Historic District is a Federal interest, and that the Planned Unit Development, as proposed to be modified would not adversely effect the Historic District. The NCPC further recommended that proposed condition 15 be amended to delete certain restriction regarding potential modification to glazing on the eighth floor. The NCPC was of the opinion that this would permit greater design flexibility and facilitate review of the final architectural plans pursuant to D.C. Law 2-144. The Zoning Commission agrees.

CONCLUSIONS OF LAW

1. The counsel for the applicant does not have a conflict of interest in representing his client in this proceeding.
2. The subject application is properly processed as a modification to the previously approved PUD.
3. The Planned Unit Development process is an appropriate means of controlling development at the subject site.
4. Approval of this modified PUD application is appropriate because it is generally consistent with the present character of the area and because it would encourage stability of the area.
5. The Commission, in its decision, has accorded to the ANC the "great weight" to which it is entitled.
6. The approval of the application would promote orderly development in conformity with the entirety of the District of Columbia Zone Plan as embodied in the Zoning Regulations and Map of the District of Columbia.
7. The proposed application can be approved with conditions which would insure that development would not have an adverse effect on the surrounding area.

DECISION

The Commission notes that this case represents an attempt to balance the interests of the historic preservation process with those of the zoning process. The PUD previously approved by the Zoning Commission was found to be incompatible with the historic district by the Mayor's Agent. The Commission has therefore reexamined the case, and has carefully evaluated the plans which the Joint Committee approved in general concept in a conceptional design review.

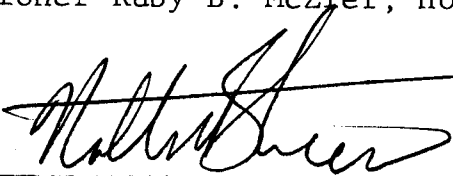
In consideration of the Findings of Fact and Conclusions of Law herein, the Commission hereby orders approval of the modification to the approved Planned Unit Development for Lots 800,801, and 8 through 12 in Square 138, subject to the following guidelines, conditions and standards:

1. There shall be no change of zoning in this planned unit development.
2. The buildings in the planned unit development may be used for any use permitted in the C-3-C District.
3. The planned unit development shall be developed in accordance with plans submitted to the Zoning Commission, prepared by Vlastimil Koubek, dated January 6, 1981, and marked as Exhibit No. 40 of the record.
4. The overall floor area ratio of the project, including the existing International Association of Machinists Building, shall not exceed 7.0 exclusive of roof structures.
5. The maximum gross floor area of the planned unit development shall not exceed 352,933 square feet. The maximum gross floor area devoted to retail use shall not exceed 48,000 square feet.
6. The overall height of the proposed building shall not exceed 118 feet. Cornice lines shall be as shown on the plans marked as Exhibit No. 40. All or part of the building may be constructed to a lower height. A roof structure may be erected to a height not to exceed 18 feet 6 inches above the roof upon which it is located.
7. The roof structure of the proposed building shall comply with the requirements of Section 3308 and Paragraph 5201.24 of the Zoning Regulations. The gross floor area of the proposed roof structure shall not exceed a floor area ratio of 0.37 .
8. Parking spaces shall be provided at a maximum of 220 in the proposed building and six in the existing building. Access to the parking areas shall be as shown on Drawing No. 8 marked as part of Exhibit No. 40 of the record.
9. No alterations of the existing International Association of Machinists building shall be permitted except as shown on Exhibit No. 40 of the record.
10. Five loading berths shall be provided as shown on Drawings 7 and 8, marked as part of Exhibit No. 40 of the record. All loading berths

and loading platforms shall conform to the standards of Article 73 of the Zoning Regulations for the C-3-C District.

11. The mini-park and treatment of public and private exterior space, landscaping and arcades shall be provided in accordance with Drawings 8 and 23 marked as part of Exhibit No. 40 of the record.
12. Pedestrian access to the interior retail spaces shall be provided as shown on Drawing 8, marked as part of Exhibit No. 40 of the record.
13. The interior retail arcade shall be designed as shown in Drawings 7 and 8, marked as part of Exhibit No. 40 of the record.
14. The ratio of areas of glazing to masonry may be modified on the ground floor and second floor of the Connecticut Avenue facade of the proposed building as shown in Drawing 20 marked as part of Exhibit No. 40 of the record.
15. The glazed areas of the eighth floor of the Connecticut Avenue facade of the proposed building as shown on Drawing 20, marked as part of Exhibit No. 40 of the record, may be modified.
16. The basic exterior of the building shall be finished in red brick. Trim may be either limestone, limestone colored precast concrete or limestone colored cast stone.
17. No building permit shall be issued until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, satisfactory to the Corporation Counsel and the Zoning Administrator, which covenant shall bind the applicant and all successors in title to construct on and use the property only in accordance with the adopted orders, or amendments thereof, of the Zoning Commission.
18. The applicant shall file for a building permit to execute the project within twelve months from the effective date of this order.

Vote of the Commission taken at the public meeting held on February 12, 1981: 3-0 (Commissioners Walter B. Lewis, Theodore F. Mariani, and John G. Parsons to approve with conditions - Commissioner George M. White, not voting not having heard the case and Commissioner Ruby B. McZier, not present not voting).



WALTER B. LEWIS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on March 12, 1981 by a vote of 4-0 (John G. Parsons, Walter B. Lewis and Ruby B. McZier to adopt, Theodore F. Mariani to adopt by absentee vote, George M. White not voting, not having heard the case).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective on 27 MAR 1981.